

CLOSED,JURY,PROSE

**U.S. District Court**  
**District of South Carolina (Anderson/Greenwood)**  
**CIVIL DOCKET FOR CASE #: 8:18-cv-02275-HMH**

Little v. Wilkie et al  
Assigned to: Honorable Henry M Herlong, Jr  
Cause: 42:1983 Civil Rights Act

Date Filed: 08/15/2018  
Date Terminated: 03/25/2019  
Jury Demand: Plaintiff  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: Federal Question

**Plaintiff****Bessie L Little**

represented by **Bessie L Little**  
302 St Aubustine Dr  
Greenwood, SC 29649  
PRO SE

V.

**Defendant****Robert Wilkie***Secretary of the Dept of Veteran Affairs*

represented by **Barbara Murcier Bowens**  
US Attorneys Office  
1441 Main Street  
Suite 500  
Columbia, SC 29201  
803-929-3000  
Fax: 803-252-2759  
Email: [barbara.bowens@usdoj.gov](mailto:barbara.bowens@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****James M Byrne***General Counsel, Dept of Veteran Affairs*

represented by **Barbara Murcier Bowens**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****Mae Hazel***FOIA Privacy Officer*

represented by **Barbara Murcier Bowens**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****Mary Ann Wentzel***VA Records & Management & Intake*

represented by **Barbara Murcier Bowens**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

| Date Filed | #        | Docket Text   |
|------------|----------|---|
| 08/15/2018 | <u>1</u> | COMPLAINT against James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie, filed by Bessie L Little. Service due by 11/13/2018.(kmca) (Entered: 08/16/2018)   |
| 08/15/2018 | <u>3</u> | MOTION for Leave to Proceed in forma pauperis (Restricted Access) by Bessie L Little. Response to Motion due by 8/29/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 08/16/2018) |

|            |           |  |
|------------|-----------|--|
| 08/15/2018 | <u>4</u>  | Local Rule 26.01 Answers to Interrogatories by Bessie L Little.(kmca) (Entered: 08/16/2018)  |
| 08/27/2018 | <u>8</u>  | <b>TEXT ORDER granting <u>3</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Jacquelyn D Austin on 8/27/2018.(gpre, )</b> (Entered: 08/27/2018)   |
| 08/27/2018 | <u>9</u>  | <b>PROPER FORM ORDER directing Plaintiff to notify the clerk in writing of any change of address. Case to be brought into proper form by 9/17/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. Signed by Magistrate Judge Jacquelyn D Austin on 8/27/2018. (gpre, )</b> (Entered: 08/27/2018)   |
| 08/27/2018 | <u>10</u> | ***DOCUMENT MAILED <u>8</u> Order on Motion for Leave to Proceed in forma pauperis, <u>9</u> Proper Form Order, Summons form, USM-285 forms (4), placed in U.S. Mail to Bessie Little (gpre, ) (Entered: 08/27/2018)   |
| 09/07/2018 | <u>13</u> | <b>ORDER authorizing service of process by clerk and directing plaintiff to notify the clerk in writing of any change of address Signed by Magistrate Judge Jacquelyn D Austin on 9/7/2018. (kric, )</b> (Entered: 09/07/2018)   |
| 09/07/2018 | <u>14</u> | ***DOCUMENT MAILED <u>13</u> Order Service – Non-Inmate placed in U.S. Mail to Bessie L. Little (kric, ) (Entered: 09/07/2018)   |
| 09/07/2018 | <u>15</u> | Summons Issued as to James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. (kric, ) (Entered: 09/07/2018)   |
| 09/07/2018 | <u>16</u> | Summons Issued as to James M Byrne. U.S. Attorney and U.S. Attorney General. Service due by 12/6/2018 (Attachments: # <u>1</u> Summons Attorney General)(kric, ) (Entered: 09/07/2018)   |
| 10/26/2018 | <u>18</u> | SUMMONS Returned Executed Mae Hazel served on 9/17/2018, Mary Ann Wentzel served on 9/18/2018, Attorney General USA served on 9/19/2018, US Attorney District of SC served 9/17/2018, Answer due 11/16/2018. (gpre, ) (Entered: 10/26/2018)  |
| 11/05/2018 | <u>19</u> | MOTION for Summary Judgment by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. Response to Motion due by 11/19/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit 1, Senators Correspondence, # <u>2</u> Exhibit 2, Notification)No proposed order.Motions referred to Jacquelyn D Austin.(Bowens, Barbara) (Attachment 1 replaced as provided by filing user on 11/13/2018) (gpre, ). (Entered: 11/05/2018) |
| 11/05/2018 | <u>20</u> | <b>ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response to <u>19</u> MOTION for Summary Judgment due by 12/6/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 11/5/2018. (gpre, )</b> (Entered: 11/05/2018)  |
| 11/05/2018 | <u>21</u> | ***DOCUMENT MAILED <u>20</u> Roseboro Order, placed in U.S. Mail to Bessie Little (gpre, ) (Entered: 11/05/2018)   |
| 11/19/2018 | <u>22</u> | Pro Se MOTION to Seal, Motion to Mediate by Bessie L Little ( Response to Motion due by 12/3/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. ), by Bessie L Little. (Attachments: # <u>1</u> Supporting Documents)No proposed order.Motions referred to Jacquelyn D Austin.(gpre, ) (Entered: 11/19/2018)   |
| 11/19/2018 | <u>23</u> | RESPONSE in Opposition re <u>19</u> MOTION for Summary Judgment. Response filed by Bessie L Little.Reply to Response to Motion due by 11/26/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Supporting Documents)(gpre, ) (Entered: 11/26/2018)   |
| 12/03/2018 | <u>25</u> | REPLY to Response to Motion re <u>19</u> MOTION for Summary Judgment , <u>22</u> MOTION to Seal MOTION Mediate Response filed by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. (Bowens, Barbara) (Entered: 12/03/2018)  |

|            |           |   |
|------------|-----------|---|
| 12/06/2018 | <u>27</u> | AMENDED RESPONSE in Opposition re <u>19</u> MOTION for Summary Judgment Response filed by Bessie L Little.Reply to Response to Motion due by 12/13/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Supporting Documents)(gpre, ) (Entered: 12/07/2018)  |
| 12/07/2018 | <u>30</u> | PRO SE REPLY to REPLY to Response to Motion re <u>19</u> MOTION for Summary Judgment , <u>22</u> MOTION to Seal. Reply filed by Bessie L Little. (Attachments: # <u>1</u> Supporting Documents, No Envelope)(gpre, ) (Entered: 12/11/2018)  |
| 12/12/2018 | <u>31</u> | SUMMONS Returned Executed James M Byrne served on 11/29/2018, answer due 12/20/2018; Robert Wilkie served on 11/29/2018, answer due 12/20/2018. (Attachments: # <u>1</u> USPS tracking, # <u>2</u> USM-285, # <u>3</u> USPS tracking)(gpre, ) (Entered: 12/12/2018)   |
| 02/01/2019 | <u>33</u> | MOTION to Expedite a final summary judgment by Bessie L Little. Response to Motion due by 2/15/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Jacquelyn D Austin.(gpre, ) (Entered: 02/01/2019)   |
| 02/07/2019 | <u>34</u> | <b>TEXT ORDER</b> denying <u>22</u> pro se motion to seal and to mediate. Plaintiff seeks to seal "any filing pertaining to [this Freedom of Information Act] case." As Defendants argue, Plaintiff has failed to comply with Local Civil Rule 5.03. D.S.C. Moreover, Defendants have redacted any personal identifying information [see, e.g., Doc. 19-1 at 4], and Plaintiff has been warned to remove personal identifying information from documents before submitting them to the Court for filing [Doc. 9 at 4]. Additionally, Plaintiff's request for mediation is premature, as Defendants contend this case is moot. The Court will address Defendants' argument that the case is moot before ordering mediation. Signed by Magistrate Judge Jacquelyn D Austin on 2/7/2019.(gpre, ) (Entered: 02/07/2019)   |
| 02/07/2019 | <u>35</u> | <b>TEXT ORDER</b> for supplemental briefing. Defendants contend this case is moot because the Department of Veterans Affairs ("VA") "has released the documents sought by [Plaintiff]." [Doc. 19 at 3.] More specifically, Defendants assert that "[t]he VA provided the information to Senator Graham's Office and notified Plaintiff that the information had been provided." [Id. at 2.] Although case law provides that "[i]f a person receives all the information he has requested under [the Freedom of Information Act ("FOIA")], even if the information was delivered late, his FOIA claim is moot to the extent that such information was sought," Von Grabe v. U.S. Dep't of Homeland Sec., 440 F. App'x 687, 688 (11th Cir. 2011), Defendants have failed to demonstrate in this case that Plaintiff received the documents she seeks in this case. Instead, Defendants have established only that the requested documents were sent to Senator Graham's office. Accordingly' by February 21, 2019, Defendants shall file a supplemental brief addressing whether Plaintiff has received the documents she seeks in this case, "[her] late husband['s] VA claims folder... as well as any temporary files and also all C&P Exams from 1941 to present." [Doc. 1 at 6.] Signed by Magistrate Judge Jacquelyn D Austin on 2/6/2019. (gpre, ) (Entered: 02/07/2019) |
| 02/07/2019 | <u>36</u> | ***DOCUMENT MAILED 35 Order, 34 Order on Motion to Seal,,, Order on Motion for Miscellaneous Relief, placed in U.S. Mail to Bessie Little (gpre, ) (Entered: 02/07/2019)  |
| 02/21/2019 | <u>38</u> | REPLY by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie to 35 Order,,,,, SUPPLEMENTAL BRIEF. (Attachments: # <u>1</u> Exhibit 1, Declaration of Linda G. Kaigler)(Bowens, Barbara) (Entered: 02/21/2019)   |
| 02/26/2019 | <u>40</u> | <b>REPORT AND RECOMMENDATION</b> recommends <u>19</u> Defendants' Motion for Summary Judgment be GRANTED, <u>33</u> Plaintiff's Motion to Expedite a final summary judgment be DENIED. Objections to R&R due by 3/12/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 2/26/2019. (Attachments: # <u>1</u> Notice of Right to File Objection)(gpre, ) (Entered: 02/26/2019)   |
| 02/26/2019 | <u>41</u> | ***DOCUMENT MAILED <u>40</u> REPORT AND RECOMMENDATION placed in U.S. Mail to Bessie Little (gpre, ) (Entered: 02/26/2019)  |

|            |           |  |
|------------|-----------|--|
| 02/26/2019 | <u>42</u> | REPLY by Bessie L Little to <u>38</u> Supplemental Brief. (Attachments: # <u>1</u> Supporting Documents)(gpre, ) (Entered: 02/27/2019)   |
| 03/25/2019 | <u>44</u> | ***CASE MANAGEMENT TRANSFERRED to civil case manager for Judge Henry M. Herlong, Jr.(gpre, ) (Entered: 03/25/2019)   |
| 03/25/2019 | <u>45</u> | <b>ORDER RULING ON <u>40</u> REPORT AND RECOMMENDATION, GRANTING <u>19</u> Defendants' Motion for Summary Judgment, filed by Robert Wilkie, James M Byrne, Mae Hazel, Mary Ann Wentzel; DENYING <u>33</u> Motion to Expedite a final summary judgment filed by Bessie L Little. Signed by Honorable Henry M Herlong, Jr on 3/25/19. (sfla)</b> (Entered: 03/25/2019) |
| 03/25/2019 | <u>46</u> | SUMMARY JUDGMENT in favor of defendants against plaintiff (sfla) (Entered: 03/25/2019)   |
| 03/25/2019 | <u>47</u> | ***DOCUMENT MAILED <u>46</u> Summary Judgment, <u>45</u> Order Ruling on Report and Recommendation, placed in U.S. Mail to pro se plaintiff (sfla) (Entered: 03/25/2019)   |